

In response to the request of the Revenue and Taxation Interim Committee, the Tax Commission suggests the committee consider the following issues in the long-term planning the committee conducts pursuant to HJR 10.

1. Study Repealing All or Part of Section 59-2-212

- Section 59-2-212 requires the commission to adjust and equalize the valuation of taxable property and allows the commission to order or make an assessment or reassessment of any property the commission believes has been overassessed, underassessed, or that has not been assessed.
- Subsections 59-2-212(2)-(5) provide procedures for making the changes the commission determines are necessary under Subsection 59-2-212(1). These procedures differ from the procedures followed by the commission in making or changing assessments of taxable property in other contexts. These procedures also present some significant administrative issues.
- Accordingly, the commission asks the Legislature to study repealing all or parts of Section 59-2-212.

2. Repeal of Commission Authority to Adjust Tax

- Subsection 59-2-1347(1)(b) provides that an interested person may apply to the commission for an adjustment of taxes levied against property assessed by the commission if, in the judgment of the commission, the adjustment serves the best human interests and the best interests of the state.
- The commission believes that it is inappropriate for the commission to adjust taxes levied by a local entity in this manner for reasons including constitutional concerns and that such adjustments impede the authority of local elected officials to establish their local budgets.

3. Define “Acquisition Cost” in Section 59-2-102

- In 1995, administrative rule R844-24P-33 (Personal Property Valuation Guides and Schedules) was amended to include a definition of “acquisition cost” as part of the inclusion of percent good schedules.
- 2008 HB 77 Personal Property Tax Amendments (Dougall) enacted Section 59-2-108 and included a definition of “acquisition cost” to be applied to certain tangible personal property. The same definition was added to Section 59-2-1115.
- In 2009, the commission decided that it was duplicative for the definition of “acquisition cost” to remain in administrative rule and it was removed from R844-24P-33.
- In subsequent years, taxpayers have argued that the definition of “acquisition cost” included in Section 59-2-108 and Section 59-2-1115 does not cover all types of taxable tangible personal property and a general definition is necessary.
- 2018 HB 375 Personal Property Tax Revisions (McCay), which did not pass, proposed to define “acquisition cost” in Section 59-2-102 for purposes for the entire property tax chapter. This definition would provide the necessary clarity for taxpayers and is consistent with long-standing commission administration.

4. Sourcing of Sales Tax for Sales of Motor Vehicles

- SST leaves the sourcing of sales tax from the sales of motor vehicles to the states.

- Under the provisions of 2003 SB 147, effective 7/1/04, the sales of motor vehicles are sourced to the business location of the seller.
- That statutory provision, now numbered as Section 59-12-213, was drafted prior to the emergence of online sales of motor vehicles.
- With the emergence of online sales of motor vehicles, Section 59-12-213 does not provide guidance for sourcing the online sale of a vehicle that is delivered to the purchaser's residence when the seller has multiple outlets in the state.
- The commission recommends the statute be amended to provide that online sales of motor vehicles that are delivered to the purchaser's residence be sourced to the purchaser's residence. This matches the sourcing of online purchases of items other than motor vehicles under SST.

5. Definition of Incremental Value for Certified Tax Rate Calculation

- Under Subsection 59-2-924(4)(b), the first step in determining the denominator in the certified tax rate calculation requires subtracting any adjustments for current year incremental value from the aggregate taxable value of all taxable property.
- Subsection 59-2-924(1)(g) defines incremental value to mean the definition in Section 17C-1-102.
- Section 17C-1-102 defines incremental value and adjusted tax increment for purposes of project areas created under Title 17C.
- Project areas are also created under Title 11, Chapter 58 (Inland Port, Title 63H, Chapter 1(MIDA), and Title 63N, Chapter 2, Part 5 (New Convention Facilities). However, the certified tax rate calculation under Section 59-2-924 only includes project areas created under Title 17C.
- Should Subsection 59-2-924(1)(g) be amended to include project areas created under the Inland Port, MIDA, and New Convention Facility statutes?

6. Primary Residential Exemption for Properties that are Under Construction or Unoccupied

- Tax Commission rule R884-24P-52 allows properties that are under construction or are unoccupied to qualify for the primary residential exemption if the properties would qualify for the exemption when the construction is completed or the property is occupied, respectively.
- The commission recommends codifying these provisions of Tax Commission rule so that they are more easily accessible to property owners.

7. Income Tax Treatment of Nonresident Wages

- While Sections 59-10-117 and 59-10-118 provide guidance for the income tax treatment of nonresident business income, rents, royalties, capital gains and losses, interest, dividends, and patents, they do not address the treatment of wages earned by nonresidents.
- The commission recommends the Legislature provide guidance on the income tax treatment of nonresident wages.

8. Sales and Use Taxation of Fuels

- Section 59-12-102 defines “commercial use,” “industrial use,” and “residential use.”

- Section 59-12-103 imposes a reduced rate for the residential use of fuels and Section 59-12-104 authorizes a sales tax exemption for the industrial use of fuels.
- If there is a single meter for the fuel, so that it is not possible, for example, to determine how much of the fuel is used commercially and how much residentially at a single location, the long-standing Tax Commission practice has been to look to the primary use of the fuel at that location for purposes of the taxation of that fuel.
- The commission recommends that the Legislature consider codifying this practice.

9. Sales and Use Taxation of Fuels Used in Condominium and Airbnb Rentals

- Section 59-12-103 provides a decreased sales tax rate for residential use of fuels and a sales tax exemption for the industrial use of fuels.
- Section 59-12-102 defines residential use as “the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.”
- Section 59-12-102 defines commercial use as the use of gas, electricity, heat, coal, fuel oil, or other fuels that is neither industrial use nor residential use.
- Should condominiums in a rental pool or Airbnb properties be considered residential, or commercial use?

10. Circuit Breaker Eligibility

- Sections 59-2-1208 and 59-2-1209 provide homeowner’s and renter’s credits when household income is below the thresholds set out in those sections.
- These thresholds are adjusted on an annual basis to match changes to the consumer price index.
- The commission recommends the Legislature evaluate the appropriateness of the adjusted thresholds.

11. Waiver/Reduction of Penalty Imposed under Section 59-2-307.

- Section 59-2-307 imposes a penalty for failure to file a required signed statement of a person’s real and personal property assessable by an assessor.
- This section provides that a penalty may not be waived or reduced “except pursuant to a procedure for the review and approval of reductions and waivers adopted by county ordinance, or by administrative rule. . .”
- The commission recommends the Legislature consider codifying a uniform waiver and reduction process under this section.